

REMARKS

Claims 1-5 were pending in the application when the Office Action was mailed. Claims 1-2 and 4-5 have been cancelled to expedite prosecution, without any concession to any characterizations made regarding these claims. Claim 3 has been rewritten in independent form. Accordingly, claim 3 is currently pending in this application.

In the present Office Action (a) Figure 1 was objected to for failing to comply with 37 CFR 1.84(p)(5), (b) the Specification was objected to for a minor informality, (c) claims 1, 2, 4, and 5 were rejected under 35 USC § 102(e) as being anticipated by US Patent Publication No. 2004/0082094 ("Yamamoto"), and (d) claim 3 was rejected under 35 USC § 103(a) as being unpatentable over Yamamoto in view of US Patent Publication No. 2004/0135919 ("Kim").

Figure 1 was amended to include reference number 110, which was inadvertently deleted from Figure 1 in the formal drawing submittal. This change merely corrects a typographical error and does not add new matter to the application. Accordingly, this objection should be withdrawn.

Paragraph 0021 has been amended to correct a minor informality by changing "dust particles" to "particulates." Accordingly, the objection to the Specification should also be withdrawn.

Claims 1-2 and 4-5 have been cancelled. Accordingly, the rejection to these claims is now moot.

Yamamoto is Disqualified as a Reference for the Purposes of 35 USC § 103(a)

Hua Wei Semiconductor (Shanghai) Co., Ltd. and OmniVision International Holding Ltd were/are both wholly owned subsidiaries of OmniVision Technologies, Inc. The present application and Yamamoto were, at the time the invention of the present application was made, owned by or subject to assignment to OmniVision Technologies,

Inc. Therefore, under 35 USC § 103(c)(1) Yamamoto is disqualified from being used as a reference to support a 35 USC § 103(a) rejection of claim 3. See also MPEP §706.02(1)(2) (2004) (Establishing Common Ownership); MPEP §706.02(1)(2)I (2004) (Definition of Common Ownership); MPEP §706.02(1)(2)II (2004) (Evidence Required to Establish Common Ownership).

Claim 3 was rejected under 35 USC § 103(a) as being unpatentable over Yamamoto in view of Kim. Because Yamamoto is disqualified as a reference for the purposes of 35 USC § 103(a), this rejection cannot be maintained. Accordingly, amended claim 3, which has been rewritten in independent form, is in condition for allowance.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0665, under Order No. 384938073US from which the undersigned is authorized to draw.

Dated:

April 29, 2005

Respectfully submitted,

By Tim R. Seeley
Tim R. Seeley

Registration No.: 53,575
PERKINS COIE LLP
P.O. Box 1247
Seattle, Washington 98111-1247
(206) 359-8000
(206) 359-7198 (Fax)
Attorney for Applicant

Attachments

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to Figure 1 (Prior Art) to insert reference number 110, which was inadvertently deleted from Figure 1 in the formal drawing submittal. Reference number 110 appeared in the informal drawings and labels existing structure in the present Figure. The existing structure is discussed in the Detailed Description section of the application using reference number 110. Accordingly, this change merely corrects a typographical error and does not add new matter to the application.

Attachment: Replacement sheet

Application No.: 10/734,099

Docket No.: 384938073US



APPENDIX

Drawing Replacement Sheet